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BOMBAY ACT No. XXV OF 1950.[1]

[THE BOMBAY STATE ROAD TRANSPORT ACT, 1950.]

[*26th May 1950*]

An Act to provide for enabling and facilitating the exercise of certain powers and the performance of certain functions by the Bombay State Road Transport Corporation.

XXXII of 1948.

WHEREAS in exercise of powers vesting in the Government of Bombay under the Road Transport Corporations Act, 1948, the Bombay Road Transport Corporation has been appointed ;

AND WHEREAS it is necessary to provide for enabling and facilitating the exercise of certain powers and the performance of certain functions by the said Corporation ;

AND WHEREAS it is expedient to empower the said Corporation to run stage carriages and public carriers services in the State ; It is hereby enacted as follows :—

CHAPTER I.

PRELIMINARY.

Short title, extent and commencement.

1. (*1*) This Act may be called the Bombay State Road Transport Act, 1950.

(*2*) It extends to the whole of the State of Bombay.

(*3*) It shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint in this behalf.

Definitions.

2. (*1*) In this Act, unless there is anything repugnant in the subject or context—

XXXII of 1948. (*a*) "Corporation" means the Bombay State Road Transport Corporation, appointed by the State Government under the Road Transport Corporations Act, 1948 ;

XXXII of 1948. (*b*) "Corporation notification" means the notification issued under the Road Transport Corporations Act, 1948, appointing the Corporation ;

(*c*) "prescribed" means prescribed by rules made under this Act ;

IV of 1939. (*d*) "principal Act" means the Motor Vehicles Act, 1939 ;

(*e*) "transport authority" means the State Transport Authority or a Regional Transport Authority constituted by the State Government under section 44 of the principal Act ;

(*f*) "transport scheme" means a scheme for the administration of State road transport service.

(*2*) The words and expressions used in this Act, but not defined, shall have the same meanings assigned to them in the principal Act.

(*3*) The provisions of this Act shall be read and construed as forming part of the principal Act :

Provided that where any of the provisions of this Act is inconsistent with or repugnant to the provisions of the principal Act, the said provision of this Act shall prevail and the said provision of the principal Act shall be deemed to have been modified to the extent of such inconsistency or repugnancy.

[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1950, Part V, pp 198-99.

CHAPTER II.

Powers and Functions of Corporation for Regulation of Road Transport Service.

Authority to Corporation to exercise powers under principal Act.

3. (*1*) Notwithstanding anything contained in the principal Act, subject however, to the provisions of this Act, the Corporation shall for the area in which it is empowered to operate, have power—

(*a*) to exercise all or any of the powers or perform all or any of the functions and duties of a licensing authority, registering authority and transport authority conferred or imposed by or under the principal Act or the rules made thereunder in respect of all or any of the vehicles belonging to or operated by or on behalf of the Corporation and in respect of all or any of the drivers, conductors, and such other personnel coming within the purview of the principal Act in the employ of the Corporation, subject to such exceptions and modifications as the State Government may by notification published in the *Official Gazette* specify in this behalf;

(*b*) to cancel or suspend in the prescribed manner any permit granted by any transport authority under Chapter IV of the principal Act if the Corporation in the public interest deems it necessary so to do in the interest of the proper administration of its services;

(*c*) to direct any person holding a stage carriage permit or public carrier's permit to continue to operate, for such period as the Corporation may in the public interest deem necessary, the services he has been operating under the principal Act, irrespective of the period for which such permit is valid.

(*2*) The provisions of section 60 or 64 of the principal Act shall not apply to such suspension or cancellation of a permit under sub-section (*1*).

(*3*) If the Corporation suspends or cancels any permit in exercise of its powers under clause (*b*) of sub-section (*1*), any person aggrieved by the order of suspension or cancellation may appeal to the State Government or such officer as the State Government may authorise in this behalf.

(*4*) Such appeal shall be filed within such period as may be prescribed. The State Government or the officer authorised shall, after following such procedure as may be prescribed, decide the appeal. The decision of the State Government or the officer authorised shall be final.

Power of Corporation to appoint officers to exercise and perform powers and duties under principal Act.

4. The Corporation may, with the previous approval of the State Government, by notification in the *Official Gazette*, direct that any power, function or duty conferred or imposed upon the Corporation under sub-section (*1*) of section 3 shall, in such circumstances and under such conditions, if any, as may be specified in the notification, be exercised or discharged by such officer or authority as may be specified in the notification.

Powers of licensing authority, registering authority and transport authority under principal Act to be held in abeyance in certain event.

5. Notwithstanding anything contained in the principal Act, on the issue of a notification under sub-section (*1*) of section 3, the powers, functions and duties of the licensing authority, registering authority and transport authority, as the case may be, to be exercised, performed and discharged by each such authority in the area or region in which the Corporation is empowered to operate shall not be exercised, performed or discharged in such area or region by such authority in relation to transport vehicles which are the property of the Corporation and the drivers, conductors, and other personnel in the employ of the Corporation but shall be exercised, performed or discharged, as the case may be, by the Corporation or by the officer or authority empowered under section 4.

Controlled routes.

6. The Corporation may, if it deems that it is in the public interest so to do, select all or any of the routes in the area referred to in section 3 for the operation of its transport vehicles thereon, and declare such route or routes by notification in the *Official Gazette* as controlled route or routes for the purposes of this Act.

Restrictions on use of controlled routes.

7. (*1*) On and after the date on which any route or routes has or have been declared by notification under section 6 as controlled route or routes, no permit granted by any transport authority under the provisions of the principal Act to any person shall be valid for the purpose of operating any transport vehicles or class of transport vehicles covered by such permit on the controlled route or routes unless such permit is countersigned by such officer as may be appointed by the Corporation in this behalf:

Provided that the officer appointed under this section may alter, add or cancel any conditions included in such permit while making his countersignature:

Provided further that such countersignature on a permit shall not affect the power of the Corporation to cancel or suspend any such permit under section 3.

(*2*) On and after the date referred to in sub-section (*1*), no person shall, on any controlled route or routes, operate any transport vehicle or cause any transport vehicle to be operated unless he holds a permit which has been countersigned as provided in sub-section (*1*) or unless such permit is granted to him by the Corporation or the officer or authority appointed by the Corporation.

Compensation.

8. Where any stage carriage permit or public carrier's permit granted under the principal Act has been suspended or cancelled under section 3 or has become inoperative under section 7 there shall be paid to the permit holder compensation in accordance with the rules made under section 7 of the Road Transport Corporations Act, 1948.

XXXII of 1948.

Exemption from necessity of permits.

9. Notwithstanding anything contained in the principal Act, the State Government may by order exempt the Corporation from obtaining a permit in respect of the vehicles belonging to or operated by the Corporation.

Chapter VIII of principal Act not to apply to vehicles of Corporation.

10. (*1*) Nothing contained in Chapter VIII of the principal Act shall apply to vehicles belonging to or operated by the Corporation.

(*2*) The Corporation may, with the previous approval of the State Government, appoint an officer or a committee to settle claims against the Corporation, arising out of the damage caused by the vehicles belonging to or operated by the Corporation.

(*3*) The committee appointed under sub-section (*2*) shall be constituted in such manner and shall exercise such powers and perform such functions as may be prescribed.

Fixation of freight, rates and fares.

11. (*1*) Notwithstanding anything contained in section 43 of the principal Act, the Corporation may, from time to time, having regard to the local conditions, by notification in the *Official Gazette* and in any such other manner as may be prescribed, fix—

(*a*) freights for public carriers in respect of any goods or class of goods;

(*b*) fares for stage carriages to be applicable throughout the area in which the Corporation is empowered to operate or special fares to be applicable on any route, in such area.

(*2*) The State Government may direct the Corporation to alter the freights or fares generally or on any specified route or in any specified area as the State Government may deem fit and the Corporation shall alter the freights or fares accordingly.

(*3*) Any alteration in the freights or fares made under sub-section (*2*) shall not come into force unless it is notified by the Corporation in the prescribed manner.

Maximum number of passengers.

12. The Corporation shall determine the maximum number of passengers and the maximum amount of luggage which shall be carried on any specified stage carriage belonging to or operated by the Corporation at any one time and shall exhibit the number of passengers or amount of luggage so fixed in a conspicuous manner in each stage carriage in such regional language as the Corporation may determine.

Power of Corporation to authorise use of its motor vehicles with restrictions on load and speed limit.

13. Notwithstanding anything contained in the principal Act and rules made thereunder, the Corporation may authorise the use of any motor vehicle belonging to or operated by the Corporation with such restriction on the load and the speed limits as may be deemed fit consistent with the conditions of the road and the safety of the passengers :

Provided that the State Government may direct the Corporation to alter or modify the restrictions imposed by the Corporation under this section and such direction shall be given effect to by the Corporation.

Carriage of goods or luggage by transport vehicle at owner's risk.

14. Notwithstanding anything contained in any law for the time being in force, any goods or luggage delivered to the Corporation for carriage by any vehicle belonging to or operated by the Corporation shall be carried absolutely at the owner's risk and the Corporation shall in no way be liable for loss, damage, destruction or misdelivery of the said goods or luggage.

Indemnity.

15. (*1*) Where the ticket or receipt given for any luggage or goods is not forthcoming, the Corporation may withhold delivery of the goods or luggage until the person entitled in its opinion to receive the said goods or luggage has given an indemnity to the satisfaction of the Corporation against the claims of any other person or persons with respect to the goods or luggage :

Provided that failure or omission on the part of the Corporation to demand such indemnity shall not be deemed as acceptance by the Corporation of any responsibility against misdelivery or non-delivery of such goods or luggage.

(*2*) Where any goods which have come into the possession of the Corporation for carriage are not claimed by the owner or other person appearing to the Corporation to be entitled thereto, the Corporation shall, if such owner or person is known, cause a notice to be served upon him requiring him to remove the goods.

(*3*) If such owner or person is not known or the notice cannot be served upon him or he does not comply with the requisition in the notice, the Corporation may within a reasonable time, subject to the provisions of any other enactment for the time being in force, sell the goods in the prescribed manner, rendering the surplus, if any, of the proceeds of the sale to any person entitled thereto.

Compensation to passengers in certain cases.

16. Notwithstanding anything contained in section 14 or 15 the Corporation may pay compensation upto the prescribed limit to any person for any loss resulting from a negligent act of an employee of the Corporation.

Corporation not bound to accept goods for transport.

17. The Corporation may, if it deems fit, refuse to accept any goods or class of goods or luggage for transport in any vehicle belonging to or operated by the Corporation without assigning any reasons.

CHAPTER III.

Offences and Penalties.

Penalty for contravening section 3.

18. (*1*) Whoever operates any transport vehicle after the permit in respect thereof has been cancelled or suspended under clause (*b*) of sub-section (*1*) of section 3 shall, on conviction, be punished—

(*i*) for a first offence with fine which may extend to one hundred rupees and in default of payment of fine with imprisonment for a term which may extend to one month;

(*ii*) for a subsequent offence with imprisonment for a term which may extend to three months or with fine which may extend to five hundred rupees.

(*2*) Whoever fails to comply with any directions under clause (*c*) of sub-section (*1*) of section 3 shall, on conviction, be punished—

(*i*) for a first offence with simple imprisonment for a term which may extend to three months or with fine which may extend to two hundred rupees or with both ;

(*ii*) for a subsequent offence with rigorous imprisonment for a term which may extend to three months or with fine which may extend to five hundred rupees or with both.

Penalty for contravention of section 7.

19. Whoever operates a transport vehicle in contravention of the provisions of section 7 shall, on conviction, be punished :—

(*i*) for a first offence with simple imprisonment for a term which may extend to two months or with fine which may extend to five hundred rupees or with both ;

(*ii*) for a subsequent offence with rigorous imprisonment for a term which may extend to three months or with fine which may extend to five hundred rupees or with both.

Travelling in stage carriage without ticket.

20. (*1*) No person shall travel in any stage carriage operated by the Corporation unless he has with him a proper ticket issued for the specific journey by an employee of the Corporation authorised to issue such ticket.

(*2*) Whoever travels in a stage carriage in contravention of the provisions of sub-section (*1*) shall, on conviction, be punished with fine which may extend to twenty rupees in addition to the payment of fare due from him and may be removed from the stage carriage by any person in the employment of the Corporation.

Drunkenness on stage carriage.

21. If any person in any stage carriage belonging to or operated by the Corporation is in a state of intoxication, such person shall be liable to be removed from the stage carriage by any employee of the Corporation, and shall not be entitled to the refund of any fare paid by him.

Occupying seat in stage carriage already reserved or entering therein when already full.

22. If a passenger, having entered a stage carriage belonging to or operated by the Corporation occupies a seat which is reserved for the use of another passenger or which already contains the maximum number of passengers exhibited therein under section 12 or in any way misbehaves so as to cause annoyance to other passengers, refuses to leave it when required to do so by any person in the employment of the Corporation, he shall, on conviction, be punished with imprisonment for a term which may extend to one month or with fine which may extend to fifty rupees or with both.

Unlawfully bringing dangerous or offensive goods upon transport vehicles of Corporation.

23. (*1*) No person shall be entitled to take with him any dangerous or offensive goods upon any vehicle belonging to or operated by the Corporation or tender or deliver any such goods for carriage upon such vehicle, without declaring that they are dangerous or offensive, as the case may be.

(*2*) Whoever carries any dangerous or offensive goods in contravention of the provisions of sub-section (*1*) shall, on conviction, be punished with imprisonment for a term which may extend to three months or with fine which may extend to five hundred rupees or with both and shall also be responsible for any loss, injury or damage which may be caused by reason of such goods having been so brought upon such vehicle.

Spoiling or causing damage to transport vehicles or property of Corporation.

24. If a person wilfully spoils or causes any damage to the vehicle belonging to or operated by the Corporation or other property of the Corporation or defaces any advertisement, poster or document set up or posted in or outside any such vehicle or any property of the Corporation, he shall, on conviction, be punished with imprisonment for a term which may extend to three months or with fine which may extend to five hundred rupees in addition to the amount due on account of the loss caused to the Corporation. Such amount shall be recoverable as fine.

General provision for punishment of offence.

25. Whoever contravenes any provision of this Act or of any rule made under this Act shall, if no other penalty is provided for the offence, be punished with fine which may extend to twenty rupees and in default of payment of fine with imprisonment for a term which may extend to seven days or, if having been previously convicted of any offence under this Act, he is again convicted of the same offence under the Act, with imprisonment for a term which may extend to three months or with fine which may extend to five hundred rupees or with both.

Jurisdiction of Court.

26. No court inferior to that of a Presidency Magistrate or a Magistrate of the Second Class shall try any offence punishable under this Act or the rules made thereunder.

Composition of offences.

27. (*1*) It shall be lawful for any person who is accused of an offence under this Act or rules thereunder to pay as penalty in the prescribed manner and in the prescribed time and to the prescribed officer by way of composition for the offence with which he is accused such sum as may be prescribed.

(*2*) On payment by such person, such person if in custody shall be set at liberty and if any proceedings in any criminal Court have been instituted against such person in respect of such offence, the composition shall be deemed to amount to an acquittal and no further criminal proceedings shall be taken against such person in respect of such offence.

Effect of this Act on other provisions of principal Act.

28. With effect from the date on which this Act comes into force, the principal Act, in its application to the State of Bombay, shall be amended as follows, namely :—

(*1*) for clause (*a*) of sub-section (*3*) of section 42 of the principal Act, the following shall be substituted, namely :—

"(*a*) to any transport vehicle owned by or on behalf of the Central Government or a State Government",

(*2*) clauses (*iii*) and (*iv*) of sub-section (*1*) of section 43 of the principal Act shall be deleted;

(*3*) section 48A and clause (*hh*) of sub-section (*2*) of section 68 of the principal Act shall be deleted.

CHAPTER IV.

MISCELLANEOUS.

Corporation to be local authority for all purposes.

29. The Corporation shall, for all purposes, be deemed to be a local authority.

Acquisition of land by Corporation.

30. (*1*) The Corporation may enter into an agreement with any person for the acquisition by purchase, lease or exchange of any land which is needed for the purpose of its transport schemes or any interest in such land or for compensating the arrears of any such right in respect of any deprivation thereof or interference thereto.

(*2*) The Corporation may also take steps for the compulsory acquisition of any land or any interest therein required for the execution of its transport schemes in the manner provided by, and in accordance with, the Land Acquisition Act, 1894, and the acquisition of any land or any interest therein for such purpose shall be deemed to be acquisition for a public purpose within the meaning of the Land Acquisition Act, 1894.

I of 1894.

I of 1894.

Entrustment of Road Transport Schemes to Corporation by Government.

31. (*1*) The State Government may entrust to the Corporation the execution of any transport scheme. On such entrustment the Corporation shall execute such scheme on such conditions as may be directed by the State Government.

(*2*) The Corporation may also undertake the work of construction, improvement, reconditioning or maintenance of roads, bridges or culverts used or likely to be used for the transport service conducted by the Corporation on such conditions as the State Government may determine.

Corporation to take over assets and liabilities of Road Transport Department.

32. All debts and expenditure incurred, all contracts entered into and all matters and things engaged or proposed to be done by, with or for the State Government for the purpose of any road transport scheme before the date on which this Act comes into force shall be deemed to have been incurred, entered into or engaged to be done by, with or for the Corporation: and all suits and legal proceedings instituted or which may be instituted by or against the State Government shall be continued or instituted by or against the Corporation, as the case may be.

(2) All expenditure which the State Government may declare to have been incurred before the date on which this Act comes into force in connection with the state transport service shall be deemed to be a share capital contributed to the Corporation and all the assets acquired by such expenditure shall vest in the Corporation.

Loans may be guaranteed by Government.

33. Loans borrowed and bonds and stock issued by the Corporation may be guaranteed by the State Government as to the repayment of the principal and the payment of interest at such rate as may be fixed by the State Government:

Provided that any sum paid or any expenditure incurred by the State Government in pursuance of such guarantee shall be a charge on the Road Transport Fund and other assets of the Corporation, until it is repaid.

Corporation to take over existing staff of Road Transport Department.

34. (1) The Corporation shall take over and employ such of the existing staff serving in the State Transport Department of the State Government as the State Government may direct and every person so taken over and employed shall be subject to the provisions of this Act and the regulations made thereunder:

Provided that

(a) during the period of such employment of any permanent Government servant all matters relating to his pay, leave, retirement, allowance, pension, provident fund and other conditions of service shall be regulated by the Bombay Civil Services Rules or such other rules as may from time to time be made by the State Government;

(b) any such member shall have a right of appeal to the State Government against any order of reduction, dismissal or removal from service, fine or any other punishment.

(2) All permanent servants of the said staff taken over and employed by the Corporation under sub-section (1) shall have a lien on their posts in the service of the State Government and the period of their service under the Corporation shall on their reversion to the service of the State Government, be counted for their increments, pension and other matters relating to their service.

Members of Board, officers and servants of Corporation to be public servants.

35. All members of the Board of the Corporation and also officers, and servants of the Corporation whether appointed by the Central Government or the State Government or the Corporation, shall be deemed, when acting or purporting to act in pursuance of any of the provisions of this Act, to be public servants within the meaning of section 21 of the Indian Penal Code. XLV of 1860

Protection of action taken under Act.

36. (1) No suit, prosecution, or other legal proceeding shall lie against any person in the employment of the Corporation for anything which is in good faith done or purported to be done under this Act.

(2) Save as otherwise provided in the Act, no suit or other legal proceeding shall lie against the Corporation for any damage caused or likely to be caused by anything in good faith done or purported to be done under this Act.

Power to sue, compromise and pay compensation.

37. (1) The Corporation may sue in any Court of competent jurisdiction any person who may in any way cause or may appear likely to cause any injury to any property, rights or privileges of the Corporation.

(2) The Corporation may compound or compromise any suit instituted by it or against it, or in respect of any claim or demand arising out of any contract entered into by it under this Act or under the Corporation notification for such sum of money or other compensation as it shall deem sufficient :

Provided that no such compounding or compromise shall be made without the previous sanction of the State Government, if it relates to a sum of money in excess of a prescribed amount.

(3) The Corporation may make compensation out of the State Transport Working Fund to any person sustaining damage by reason of the exercise of the powers vested in it, its Board, committee, officers and servants under this Act or under the Corporation notification.

(4) The expenses of any civil or criminal proceedings prosecuted or defended on behalf of the Corporation or its officers or servants with the sanction of the Corporation may be paid out of the State Transport Working Fund.

Limitation of suits, etc.

38. No person shall commence any suit against the Corporation, its Board, committee, officer or servant or any person acting under the orders of the Corporation for anything done or purporting to have been done in pursuance of this Act or the Corporation notification without giving to the Corporation, Board, committee, officer, servant or any person two months previous notice in writing of the intended suit and of the cause thereof, nor after six months from the date of the act complained of,

and in the case of any such suit for damages, if tender of sufficient awards shall have been made before the action was brought, the plaintiff shall not recover more than the amount so tendered, and shall pay all costs incurred by the defendant after such tender.

Powers of Board to delegate its powers and functions under Act, etc.

39. It shall be lawful for the Board of the Corporation to delegate any of its powers or functions under this Act or under the Corporation notification to any of its officers or authority subject to such conditions as it may think fit :

Provided that such delegation shall not debar the Board from exercising any of the said powers or performing any of the said functions.

Power to make rules and regulations.

40. (1) The State Government may by notification in the *Official Gazette* make rules for the purpose of carrying into effect the provisions of this Act.

(2) Without prejudice to the generality of the foregoing provision, such rules may provide for all or any of the following matters :—

(*a*) the manner of cancelling or suspending a permit under clause (*b*) of sub-section (*1*), the period within which an appeal shall be filed under sub-section (*3*), and the procedure to be followed in deciding such appeal under sub-section (*4*), of section 3 ;

(*b*) the procedure for settling claims arising out of accidents caused to or by the vehicles belonging to or operated by the Corporation and the manner of constituting committee and the powers and functions to be exercised and performed by the committee under section 10 ;

(*c*) the manner of notifying freights and fares or any alteration in freights and fares under section 11 ;

(*d*) the limit upto which compensation may be paid under section 16 ;

(*e*) the amount of penalty, the manner and time in which, and the officer to whom such amount by way of composition shall be paid under section 27 ;

(*f*) safety precautions relating to transport vehicles belonging to and operated by the Corporation and the powers and functions of the staff employed by the Corporation ;

(*g*) disposal of unclaimed goods and parcels consigned to the Corporation and of unclaimed goods, luggage or articles left in stage carriages or in the premises of the Corporation ;

(*h*) exemption from any of the provisions of the principal Act in respect of transport vehicles, which are the property of the Corporation and drivers, conductors and other personnel in the employ of the Corporation ;

(*i*) any other matter which is to be or may be prescribed.

(*3*) The Corporation may from time to time with the sanction of the State Government make regulations, not inconsistent with the provisions of this Act and the rules made thereunder, for carrying out the purposes of this Act ; in particular and without prejudice to the generality of the foregoing provision, the Corporation may make regulations for any of the following matters :—

(*a*) opening of new services or closing of any service on any route or routes and the procedure to be followed in respect thereof ;

(*b*) avoidance of preference to passengers and fixation of priorities in case of congestion ;

(*c*) prepayment of fares and freights ;

(*d*) advance booking ;

(*e*) levy of reservation fee ;

(*f*) classification of accommodation in stage carriages ;

(*g*) issue of tickets, season tickets, passes at concessional rates and complimentary passes ;

(*h*) production of tickets or passes by passengers when demanded ;

(*i*) grant of refund for unused tickets;

(*j*) payment of compensation under section 16;

(*k*) the conveyance in stage carriages of corpses or persons suffering from any infectious or contagious disease or goods likely to cause discomfort or injury to passengers and the inspection and disinfection of such carriages, if used for such purposes;

(*l*) the conditions subject to which goods may be carried on stage carriages partly or wholly in lieu of passengers.

(*4*) The rules and regulations made under this section may provide that any person contravening any such rule or regulation shall, on conviction, be punished with fine which may extend to such amount as may be specified in the rule or regulation.

(*5*) Power to make rules and regulations under this section shall be subject to the condition of previous publication.

(*6*) The rules and regulations made under this Act shall, when published, have the same effect, as if they were contained in this Act.